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FROM: Gregory Baker **NUMBER OF PAGES:** 5 incl cover

Attached is a revised summary of our October 8th meeting at NOAA Sand Point regarding the Duwamish River, incorporating comments received on the draft summary. Please toss your copy of the draft

I suggest that we include EPA on the next Elliott Bay/Duwamish natural resource trustees conference call. Normally those calls are on the first Thursday of the month, but given the short notice I propose that we schedule the next call for 10 AM on Thursday, November 12th. For the agenda, we should report on follow-up to our October 8th meeting, exchange any additional ideas on coordinating environmental efforts on the Duwamish, and provide an update on production of our Sediment Characterization Study report. I will obtain a call-in number for that conference call shortly.

As always, call me with questions, comments, or suggestions. (206) 526-4601.

Greg Baker

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Sediment Contamination in the Duwamish River
Notes on the October 8, 1998 Meeting, NOAA Offices, Sand Point Way
Elliott Bay/Duwamish Natural Resource Trustees, U.S. EPA, WA DOE

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INTRODUCTION

The meeting was called for two reasons:

- Discussion of strategies concerning the overall natural resource damage assessment efforts on the Duwamish (now that NR Trustees are concluding the sediment study undertaken last year).

- Three-way meeting (Trustees, EPA, DOE) to discuss advantages, disadvantages, and mechanisms for pursuing an accelerated cleanup of the most highly contaminated area of the Duwamish Waterway, Slip 4.

We began by discussing Slip 4, exchanging information about the significance of the contamination and what we knew about Boeing Company talks with the Regional DOE office and with another Slip 4 property owner, Crowley Maritime, regarding possible cleanup of the Slip under MTCA. Boeing has indicated they would participate in, but not lead, such a group cleanup effort.

Possible frameworks under which we could pursue accelerated Slip 4 cleanup:

DOE Lead. DOE could issue Administrative Orders under MTCA. Alternatively, the PLPs could proceed with a MTCA cleanup under State guidelines for "Voluntary cleanups".

EPA Lead. Under removal authorities, EPA could issue unilateral administrative orders upon making a finding of imminent and substantial endangerment under Section 106 of Superfund. Alternatively, EPA could negotiate 106 consent orders with the parties

Trustee Lead. Trustees could issue Superfund Section 106 orders, with State and EPA concurrence.

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These options were discussed in the context of the current status of the Trustees' NRDA studies and EPA's Superfund Site Investigation, which could lead to listings of multiple sites or the entire Waterway on the National Priorities List. Taking early action on Slip 4 neither contributes to nor detracts from the listing decision. Nevertheless, for all the obvious advantages to an early cleanup, there were concerns raised that it represented a piecemeal approach to settling contamination and natural resource injury issues on the Duwamish.

The idea was put forward that instead of focusing energy on Slip 4 at this time, we rather devote energy toward development of a more comprehensive cleanup and restoration plan of action for the Duwamish Waterway that would address simultaneously the mandates of regulatory/cleanup programs and interests of the trust resources for which we are responsible.

If we were to pursue such an effort, the following tasks were identified as being necessary and timely:

1. Develop position on sediment cleanup levels ("primary restoration goals") for Duwamish Waterway, examining existing sediment management values, past cleanup goals, and research literature on natural resource injuries associated with contaminated sediments.

2. Develop, at a screening level, current natural resource restoration needs and options for the Duwamish Waterway.

3. Identify the stakeholders that may have a role to play in the cleanup and habitat restoration outcomes of Superfund/MTCA/NRDA-like efforts. In the meeting, parallels were drawn with approaches pursued in other places (Willamette River, Coos Bay, and others) where impaired waters are surrounded by numerous potentially responsible/liable parties. There was a sentiment that in the case of the Duwamish, we don't have as strong a sense of whom all of the essential parties are and which of them would take the initiative to organize a group of parties to enter into agreements to conduct investigations, cleanups, and restoration.

4. Identify source control needs. Ideally, sediment cleanups shouldn't proceed without better knowledge and control of existing sources and their potential to recontaminate. (Location-specific recontamination studies have been authorized under the Elliott Bay/Duwamish Restoration Program to support pending cleanups associated with the Norfolk and Diagonal CSOs, but the significance of existing releases to Slip 4, and a broader understanding of existing releases throughout the Waterway, are lacking.)

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TIME FRAME

We collectively recognized that there would be a convergence of events/actions early in 1999 that will focus attention on the Duwamish Waterway. These include:

- Likely issuance by NOAA and the trustees of a NRDA Preasssessment Screen, documenting a decision to proceed with an assessment of natural resource damages for the Duwamish Waterway.
- Issuance of the Site Investigation report by EPA, with implications for potential NPL listings.
- Listing of the chinook salmon stocks in Puget Sound as threatened or endangered by NOAA, under the Endangered Species Act.

The recent release of the County's draft CSO study has already focused public attention on regional water impairment problems. Also, The NMFS Northwest Fisheries Science Center is currently conducting studies on the effects of sediment contamination on chinook salmon, and these studies may produce additional findings later in 1999. We may use the convergence of all of these events and the increased awareness they create as an opportunity to move the cleanup and damage assessment processes forward.

CONCLUSIONS

It was suggested that, in principle, we have a responsibility to present a coordinated set of requirements for regulated parties, rather than disjointed or multiple sets of requirements. A few proposals were made for how we might collectively proceed. One suggestion was that EPA informally participate on some of the regular NR Trustee conference calls to assure cleanup/NRDA coordination. Another proposal would have an exchange of letters among cleanup and natural resource agencies to memorialize a commitment to integrating cleanup and restoration requirements, timing, and mechanisms.

Additional questions were posed but not answered at the meeting. How might King County and the City of Seattle be involved in collective planning and oversight efforts at cleanup and restoration, given the duality of their roles? How do we move forward, and who among us takes the lead in answering the major questions posed above?

We did not conclude to take specific action on Slip 4 at this time, although DOE representatives agreed to follow up on how a voluntary cleanup might proceed.

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FOLLOW UP

As a follow up to the meeting, we agreed to use the drafting of these notes on the meeting as a means of collectively "checking in" on what was said, and what our next steps might be. The meeting summary above reflects comments received from participants who reviewed a draft of the notes.

The EPA participants have reaffirmed their recommendation that an informal exchange of letters take place among the cleanup agencies and natural resource trustees to memorialize intentions to coordinate our efforts and maintain active communication. The trustees are currently moving forward with efforts to develop cleanup goals and habitat restoration options.

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